



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue NW
Washington DC 20001
(202) 624 8778
1 800 828 6496
Fax (202) 624 8792

Michael H Holland
Election Officer

Chicago Office
% Cornfield and Feldman
343 South Dearborn Street
Chicago IL 60604
(312) 922 2800

March 28, 1991

VIA UPS OVERNIGHT

Philip West
1339-1 Moku Place
Honolulu, Hawaii 96822

Julio Quirocho
c/o Local 996
904 Kohou Street
Suite 102
Honolulu, Hawaii 96817

Harold De Costa
President
IBT Local Union 996
904 Kohou Street
Suite 102
Honolulu, Hawaii 96817

Re: Election Office Case No P-699-LU996-RMT

Gentlemen

A pre-election protest was timely filed pursuant to Article XI, § 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") In his protest, Philip West alleges that Local 996 has impermissibly refused to accept his dues, thereby denying him membership rights and specifically denying him the opportunity to vote in the upcoming delegate election

The investigation discloses the following facts Philip West has been an employee of Queens Medical Center since 1980 Local 996 is the bargaining agent for employees of Queens Medical Center In June 1990, West took a six month leave of absence from the Medical Center to work for the Local Union In November of 1990, the newly elected President of the Local, Harold De Costa released West to return to work at Queens Medical Center The hospital and West have a dispute about the terms of West's return from his leave of absence, which is currently the subject of a grievance filed by Local 996 West is also working as a business agent for Local 5 of the Hotel Employees and Restaurant Employees Union Local 996 has refused, however, to accept a tender of dues by West The Local's position is that it is not required to accept dues because West is not employed at the craft West's position is that his work for Local 5 is only temporary, pending the successful resolution of his grievance and his return to work at the Medical Center

Article IV, § 2(b) of the *Rules* provides in pertinent part "The active employment at the craft requirement may be excused by active pursuit of an

Philip West
Page 2

unresolved grievance or other legal action challenging suspension or discharge " It follows that active pursuit of an unresolved grievance to return West to the bargaining unit will also satisfy the requirement of employment at the craft West's temporary employment outside the craft does not disqualify him from eligibility for membership in Local 996 The IBT Constitution, Article XVIII, § 7 (e) permits retention of membership by members working on a temporary or part-time basis outside the craft

Based on the following, the protest is GRANTED West will be permitted to participate in the 1991 IBT International Union Delegate and Officer election process, including the right to vote in the Local 996 delegate election on March 30, 1991, provided that West appropriately tenders his dues to Local 996

If any interested party is not satisfied with this determination, they may request a hearing before the Independent Administrator within twenty-four (24) hours of their receipt of this letter The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Officer in any such appeal Requests for a hearing shall be made in writing, and shall be served on Independent Administrator Frederick B Lacey at LeBoeuf, Lamb, Leiby & MacRae, One Gateway Center, Newark, New Jersey 07102-5311, Facsimile (201) 622-6693 Copies of the request for hearing must be served on the parties listed above, as well as upon the Election Officer, IBT, 25 Louisiana Avenue, N W , Washington, D C 20001, Facsimile (202) 624-8792 A copy of the protest must accompany the request for a hearing

Very truly yours,


Michael H Holland

MHH/mca

cc Frederick B Lacey, Independent Administrator
Bruce Boyens, Regional Coordinator